

REMARKS

Reconsideration of the instant application is respectfully requested. The present Amendment and Response to Restriction Requirement is responsive to the Office Action of September 24, 2003, in which claims 1-4 and 6-23 are presently pending. A restriction requirement has been made as to ten separately identified species of the claimed invention, as is more particularly set forth in the present action.

In response, claims 2, 9 and 10 have been amended to include the language "comprising converting the exposed semiconductor substrate material from a non-porous silicon material to a porous silicon material," as also found in claim 1. Similarly, claim 19 has been amended to include the language "converting the etched portion of the semiconductor substrate from a non-porous silicon material to a porous silicon material." Claims 4 and 22 have been canceled.

MPEP section 811 provides that "[b]efore making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required." There is no indication by the Examiner in the present action that such a burden would exist in this instance. Moreover, the Applicants respectfully submit that, given the present stage of the prosecution of the pending application, no serious burden is put upon the Examiner in considering each of the remaining pending claims. Each "embodiment" presently claimed has been previously examined in the original Office Action of August 14, 2002, as well as the subsequent Office Action of April 7, 2003.

Notwithstanding the "serious burden" issue, the Applicants respectfully traverse the restriction requirement for the reason that each of independent claims 1, 2, 9 and 10 are now directed toward forming oxide layers of varying thicknesses across a semiconductor substrate surface, wherein the step of increasing a differential oxidation

rate value of an exposed semiconductor substrate surface specifically includes "converting the exposed semiconductor substrate material from a non-porous silicon material to a porous silicon material." As such, they are properly considered as being drawn to a common species. The same is true for amended claim 19.

Furthermore, as to dependent claims 11-14 (each dependent from claim 1), the Applicants respectfully submit that they are not drawn to four individual species. Claims 11 and 12 further specify the manner in which the first and second oxide layers are formed, respectively, while claims 13 and 14 further specify the manner in which the differential oxidation rate is increased. In any case, they are all directed to increasing a differential oxidation rate value of an exposed semiconductor substrate surface by at least "converting the exposed semiconductor substrate material from a non-porous silicon material to a porous silicon material." As such, each of claims 11-14 may be properly included in the species of claim 1 (as well as claims 2, 9, 10 and 19).

Finally, with regard to independent claim 15, the Applicants submit that claim 15 is directed to a more specific application of forming oxide layers of varying thicknesses across a semiconductor substrate (i.e., forming multiple gate oxide thicknesses). Again, however, claim 15 also includes the feature that a non-porous semiconductor substrate material is converted into a porous semiconductor substrate material. As such, claims 15-18 may also be properly examined in the instant application.

In light of the above, a reconsideration of the requirement for restriction is respectfully requested. However, in the event that this request is rejected by the Examiner, the Applicants then provisionally elect Species I, as indicated earlier, which includes at least claims 1-3, 6-14, 19-21 and 23.


The Applicants reserve the right to file a divisional application directed to any non-elected subject matter in the present application. If the Examiner has any queries

regarding the instantly submitted preliminary amendment and response, the Applicants' attorney respectfully requests the courtesy of a telephone conference to discuss the same.

For the above stated reasons (as well as for the reasons outlined in the Amendment dated July 1, 2003), it is respectfully submitted that the present application is now in condition for allowance. No new matter has been entered and no additional fees are believed to be required. However, if any fees are due with respect to this Amendment, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,  
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